DOCKET NO.: 2007-1520-AIR-E TCEQ ID: RN100210129 CASE NO.: 34651
RESPONDENT NAME: Gulf Chemical & Metallurgical Corporation

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ORDER TYPE:						
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING				
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER				
_AMENDED ORDER	_EMERGENCY ORDER					
CASE TYPE:						
<u>X</u> AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE				
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION				
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL				
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION				
SITE WHERE VIOLATION(S) OCCURRED: Gulf Chemical and Metallurgical Freeport, 302 Midway Road, Freeport, Brazoria County TYPE OF OPERATION: Secondary nonferrous metals smelting and refining plant SMALL BUSINESS: YesX_ No OTHER SIGNIFICANT MATTERS: There are no complaints. There are two additional pending enforcement actions regarding this facility location, Docket Nos. 2006-0734-AIR-E, and 2007-1631-IHW-E. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on March 10, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Raj Vadlamudi, Environmental, Health and Safety Manager, Gulf Chemical & Metallurgical Corporation, 302 Midway Road, Freeport, Texas 77542 Mr. Zenon R. Llanos, Vice President of Research, Gulf Chemical & Metallurgical Corporation, 302 Midway Road, Freeport, Texas 77542 Respondent's Attorney: Not represented by counsel on this enforcement matter						

DOCKET NO.: 2007-1520-AIR-E

VIOLATION SUMMARY CHART: VIOLATION INFORMATION PENALTY CONSIDERATIONS CORRECTIVE ACTIONS TAKEN/REQUIRED Type of Investigation: Total Assessed: \$31,050 Ordering Provisions: ___ Complaint ___ Routine 1) The Order will require the Respondent Total Deferred: \$6,210 Enforcement Follow-up X Expedited Settlement to implement and complete a X Records Review Supplemental Environmental Project (SEP). (See SEP Attachment A) Financial Inability to Pay Date(s) of Complaints Relating to this 2) The Order will also require the Case: None SEP Conditional Offset: \$12,420 Respondent to: Date of Investigation Relating to this Total Paid to General Revenue: \$12,420 a. Within 30 days after the effective date Case: August 10, 2007 of this Agreed Order, begin complying Site Compliance History Classification Date of NOV/NOE Relating to this Case: with the allowable emission limits of NSR High X Average Poor Permit No. 19793 and Standard Permit September 11, 2007 (NOE) No. 36867: Person Compliance History Classification 化氯化二酚 鐵矿 化钢 化硫铁矿 鳞皮 海豚 Background Facts: This was a routine __ High __X Average __ Poor b. Within 30 days after the effective date record review. of this Agreed Order, determine the Major Source: X Yes No ATR removal efficiency of the Electric Arc Furnace East and West Scrubber Stacks by Applicable Penalty Policy: September 2002 1) Failed to comply with the allowable utilizing the operational data to calculate emission limit of 0.32 pounds per hour input to the scrubber; and ("lbs/hr") for volatile organic compounds ("VOCs"). Specifically, during the stack c. Within 45 days after the effective date of this Agreed Order, submit written testing on February 22-23, 2007, VOC emissions from the Electric Arc Furnace certification and include detailed supporting documentation to demonstrate Scrubber Stack emission point number compliance with Ordering Provision Nos. ("EPN") 009 were 1.079 lbs/hr [30 Tex. 2.a. and 2.b. ADMIN. CODE §116.115(c), NSR Permit No. 19793 Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to comply with the allowable A Read Francisco emission limit of 0.51 lbs/hr for particulate matter ("PM"). Specifically, during the and and the second stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace East Scrubber Stack (EPN 012) were 0.92 lbs/hr [30 Tex. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 3) Failed to comply with the allowable emission limit of 0.51 lbs/hr for PM. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace West Scrubber Stack (EPN 013) were 1.38 lbs/hr [30 Tex. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code

§ 382.085(b)].

4) Failed to demonstrate removal efficiency of the Electric Arc Furnace East Scrubber Stack (EPN 012) [30 Tex. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code § 382.085(b)].	
5) Failed to demonstrate removal efficiency of the Electric Arc Furnace West Scrubber Stack (EPN 013) [30 Tex. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code § 382.085(b)].	

Additional ID No(s).: BL0029V

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Attachment A Docket Number: 2007-1520-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Gulf Chemical & Metallurgical Corporation

Payable Penalty Amount: Twenty-Four Thousand Eight Hundred Forty Dollars (\$24,840)

SEP Amount: Twelve Thousand Four Hundred Twenty Dollars (\$12,420)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles

Program

Location of SEP: Brazoria County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Brazoria County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

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Gulf Chemical & Metallurgical Corporation Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. <u>Minimum Expenditure</u>

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council Houston-Galveston AERCO P.O. Box 22777 Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division Attention: SEP Coordinator, MC 219 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality Financial Administration Division, Revenues Attention: Cashier, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

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Gulf Chemical & Metallurgical Corporation Agreed Order – Attachment A

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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Policy Revision 2 (Sept		ty Calculatio	n Work	sheet (P	•	Seplember 19, 2007
TCEQ						
DATES Assigned PCW	17-Sep-2007 21-Sep-2007 Scre	ening 18-Sep-2007	EPA Due			
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	Gulf Chemical & Meta	Illurgical Corporation				
Reg. Ent. Ref. No.			Major	/Minor Source	Major	
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Enf./Case ID No.	34651		No	. of Violations		
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Multi-Media	741			EC's Team	EnforcementTeam	3
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						3
	Р	enalty Calcula	ation Sec	ction		la de la companya de
TOTAL BASE PENAL	TY (Sum of viola	tion base penaltie	es)		Subtotal 1	\$22,500
				That i deciminate A74648		en jaron en la en g
ADJUSTMENTS (+/-)		Base Penalty (Subtotal 1) by	v the indicated ne	ercentage		nil die koeke is i
Compliance Histo			Enhancement		otals 2, 3, & 7	\$8,550
	The Respondent wa	s issued two NOVs w	ith the same/	similar type of		
Notes	violations, four NOV	's without the same/si	milar type of v	iolations, and		
	self repo	orted ten months of eff	luent violatior	ıs.		
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Culpability	INO		Elliancement			Ψ
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Notes	The Respon	dent does not meet th	e good faith o	riteria.		
			4]	
		0%	Enhancement*		Subtotal 6	\$0
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Notes	Defer	ral offered for expedite	ed settlement.			
	<u> </u>					
PAYABLE PENALTY				control to the forest to	Parance Service	\$24,840

Screening Date 18-Sep-2007

Docket No. 2007-1520-AIR-E

PCW

Respondent Gulf Chemical & Metallurgical Corporation

Case ID No. 34651

Reg. Ent. Reference No. RN100210129 Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Policy Revision 2 (September 2002) PCW Revision September 19, 2007

Compliance History Worksheet

Component	Number of	nter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	14	28%
, January January January	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
Audito	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	, ., 0%
7 - Paris de La Companya (1911)	Plea	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a	Nio	00/

	Environmental management systems in place for one year or more	' No	0%
1	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3)

0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent was issued two NOVs with the same/similar type of violations, four NOVs without the same/similar type of violations, and self reported ten months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date	18-Sep-2007	Docket No. 2007-152	0-AIR-E	PCW
Responden	t Gulf Chemical & Metallurgical C	Corporation	Policy Rev	ision 2 (September 2002)
Case ID No	. 34651		PCW Rev	ision September 19, 2007
Reg. Ent. Reference No	RN100210129			
Media [Statute			•	e (Medium const
Enf. Coordinator				State Vacada
Violation Numbe	1.	·		
Rule Cite(s	30 Tex. Admin. Code §116.115 Healt	(c), Permit No. 19793 Special Co h & Safety Code § 382.085(b)	ondition No. 1, and Tex	aThraww.*
Violation Description	volatile organic compounds ("V 22-23, 2007, VOC emissions t	able emission limit of 0.32 pound OCs"). Specifically, during the st rom the Electric Arc Furnace Sc ber ("EPN") 009 were 1.079 lbs/l	ack testing on February rubber Stack emission	e de la constante de la consta
			Base Penalty	\$10,000
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mark only one	quarterly x	\	/iolation Base Penalty	\$7,500
with an x	semiannual			L. L
	annual			
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	compliance) to selecti	34.0 0. 30p.0.11001 10, 2007.		ALCO CRESSADA
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Remediation/Disposal		1		0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	Estimated cos	t to conduct stack to	esting and demon	1.1.	SPASSAL PRODU		
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Notes for DELAYED costs Avoided Costs	No. 19793. D	ate Required is the	date stack testing	strate co was cor ntering	ompliance with the nducted, Final Dat Item (except for	allowable emission e is the projected co	limits of Permi empliance date costs)
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Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	No. 19793. D	ate Required is the	date stack testing	strate co was cor ntering 0.0 0.0	ompliance with the nducted, Final Dat	allowable emission e is the projected co one-time avoided of \$0 \$0 \$0	limits of Permi ompliance date costs)
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Scre	ening Date	18-Sep-2007		E	Ocket No. 2007-15	20-AIR-E		PCW
	Respondent	Gulf Chemica	al & Metallurgio	al Corporation	1		Policy Revi	sion 2 (September 2002)
	Case ID No.						PCW Revis	sion September 19, 2007
Reg. Ent. Re			29					
	lia [Statute]							
	Coordinator	Jorge Ibarra,	P.E.					
VIOI	lation Number Rule Cite(s)	20 Toy	Admin Code &	116 615/2) an	d (6), Standard Permit	No. 36867 Gen	oral	
	Rule Cite(s)	30 Tex. /			Ith & Safety Code § 38			
Violatio	on Description	("PM") and f East and W Feed Pad I emissions fro 013 were 0.9	ailed to demonest Scrubber S Baghouse. Speom the Electric 2 lbs/hr and 1.	strate that the stacks are equecifically, during Arc Furnace I 38 lbs/hr, resp	ssion limit of 0.51 lbs/h removal efficiency of ivalent or exceed the r g the stack testing on l East and West Scrubb ectively and no operat re no removal efficience	the Electric Arc I emoval efficienc February 21, 200 er Stacks EPNs ional data was u	Furnace y of the D7, PM 012 and tilized to	
						Base	Penalty	\$10,000
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	mark only one with an x	daily monthly quarterly semiannual	X			Violation Base	Penalty	\$15,000
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Economic Benefi	it (EB) for th	is violation		May 40 Thirt Sa	Statut	ory Limit Tes	t	anding Asserted in the
	Estimated	d EB Amount		\$154	Viola	tion Final Pena	Ity Total	\$20,700
								000 700
	in and the		5459 Your A. James	This violation	Final Assessed Pena	alty (adjusted fo	or limits)[_	\$20,700

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Respondent C Case ID No. 3		& Metallurgical Co	poration		Berking Selection 145	ing and the second	
Reg. Ent. Reference No. I Media / Violation No. 2	Air					Percent Interest	Years of Depreciation
Violation No. 2					Edge Steel 90	5,0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	Transparence (1997)	gantani le Euponysianan di Karanga	ndorers a	Marketine Const.	supports the second	
Delayed Costs_	The street and train	and property of	eren op et.				
Equipment	a de Africa e in	Mai da	24-24-20-25	0.0	\$0	\$0	\$0
Bulldings	Managara ay Lauri Arian da Karana ay Laurin Ay 2008 ay 16 ay 2004 ay 16 ay	Sauli, er gerenden er er er er er er	Shirt Santan	0,0	\$0	\$0	\$0
Other (as needed)	es musiliant is the residence.		999496115-55-7	0.0	\$0	\$0	\$0
Engineering/construction	A CONTRACTOR AND A CONT			0.0	\$0	\$0	\$0
Land L	Section School and Control	STATE OF STATE		0.0	\$0	n/a	\$0
Record Keeping System			7.7.14 0000	0.0	\$0	n/a	\$0 ************************************
Training/Sampling	\$2,500	21-Feb-2007	15-May-2008	1.2	\$154 \$0	n/a n/a	\$154 \$0
Remediation/Disposal	منح من المحادث		Caracter Control To	0.0	\$0 \$0		\$0 \$0
Permit Costs Other (as needed)				0.0	\$0 \$0	n/a n/a	\$0 \$0
Notes for DELAYED costs			te Required is the		ck testing was con	the allowable emiss ducted, Final Date i	
Avoided Costs	CHARANN	IUALIZE [1] avoid	ed costs before e	ntering	item (except for	one-time avoided o	osts)
Disposal		Maria de la Companya		0.0	\$0	\$0	\$0
Personnel	470077 100 101 101 101 101 101 101 101 101 101 101 101 101 101 101 101 101		di la jara da	0,0	\$0	\$0	\$0
Inspection/Reporting/Sampling	FI TANSBURTERING TO			0.0	\$0	\$0	\$0
Supplies/equipment		The second terms and the second	agricos, en como esta como constante de la como constante de la como constante de la como constante de la como	0.0	\$0	\$0	\$0
Financial Assurance [2]		1 108	Part and the second	0.0	\$ 0	\$0	\$0
	Jan Jan Harris			0,0	\$0	\$0	\$0
ONE-TIME avoided costs [3]							
ONE-TIME avoided costs [3] Other (as needed)			l es la	0.0	\$0	\$0	\$0
				13. Vol. 13.	\$0		\$0

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Compliance History

Classification: AVERAGE Rating: 1.97 Customer/Respondent/Owner-Operator: CN600124598 Gulf Chemical & Metallurgical Corporation **GULF CHEMICAL AND** Classification: AVERAGE Site Rating: 0.93 Regulated Entity: RN100210129 METALLURGICAL FREEPORT ID Number(s): BL0029V AIR OPERATING PERMITS ACCOUNT NUMBER **PERMIT** 1337 AIR OPERATING PERMITS EPA ID TXD074195678 INDUSTRIAL AND HAZARDOUS WASTE **GENERATION** 30952 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) **GENERATION PERMIT** 50204 INDUSTRIAL AND HAZARDOUS WASTE STORAGE **PERMIT** 50204 INDUSTRIAL AND HAZARDOUS WASTE **STORAGE** INDUSTRIAL AND HAZARDOUS WASTE **PERMIT** 50204 STORAGE PERMIT 12161 AIR NEW SOURCE PERMITS 12539 PERMIT AIR NEW SOURCE PERMITS 12540 AIR NEW SOURCE PERMITS PERMIT 19793 AIR NEW SOURCE PERMITS **PERMIT** 25593 AIR NEW SOURCE PERMITS **PERMIT PERMIT** 36867 AIR NEW SOURCE PERMITS BL0029V AIR NEW SOURCE PERMITS ACCOUNT NUMBER 9803 AIR NEW SOURCE PERMITS **PERMIT** 1157B AIR NEW SOURCE PERMITS **PERMIT** 1157C **PERMIT** AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS **PERMIT** 7723 **PERMIT** 11990 AIR NEW SOURCE PERMITS **PERMIT** 12094 AIR NEW SOURCE PERMITS 4803900032 AFS NUM AIR NEW SOURCE PERMITS 73793 REGISTRATION AIR NEW SOURCE PERMITS 74664 AIR NEW SOURCE PERMITS REGISTRATION REGISTRATION 79434 AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS REGISTRATION 80922 TPDES0034738 **PERMIT** WASTEWATER WQ0001861000 **PERMIT** WASTEWATER TPDES0034738 WASTEWATER EPA ID TX0034738 **PERMIT** WASTEWATER 1565 PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 30952 SOLID WASTE REGISTRATION IHW CORRECTIVE ACTION # (SWR) Rating Date: 9/1/2007 Repeat Violator: NO Location: 302 MIDWAY RD, FREEPORT, TX, 77541 **REGION 12 - HOUSTON** TCEQ Region: September 18, 2007 Date Compliance History Prepared: Enforcement Agency Decision Requiring Compliance History: September 18, 2002 to September 18, 2007 Compliance Period: TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History (817) 588-5890 Phone: Name: Jorge Ibarra, P.E. **Site Compliance History Components** 1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (known) change in ownership of the site during the compliance period? No N/A 3. If Yes, who is the current owner? 4. if Yes, who was/were the prior owner(s)? N/A N/A 5. When did the change(s) in ownership occur?

Components (Multimedia) for the Site:

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

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1 09/18/2002
                  (180138)
 2 10/17/2002
                  (180141)
 3 10/21/2002
                  (14347)
 4 11/20/2002
                  (180145)
 5 12/20/2002
                  (180149)
 6 02/12/2003
                  (180153)
 7 02/21/2003
                  (180114)
 8 03/19/2003
                  (180117)
 9 04/09/2003
                  (28992)
10 04/15/2003
                  (31949)
                  (180122)
11 04/18/2003
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12 04/25/2003 (34688) 13 04/30/2003 (33349)

14 05/19/2003 (180126)

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15 06/20/2003 (304671) 16 07/18/2003 (304674)

17 08/18/2003 (304676) 18 08/22/2003 (113080)

19 09/12/2003 (304678)

20 10/21/2003 (304680)

21 11/20/2003 (304681) 22 12/22/2003 (304682)

23 01/23/2004 (304683)

24 02/06/2004 (259548)

25 02/13/2004 (304664)

26 04/23/2004 (304667) 27 05/06/2004 (265363)

28 05/21/2004 (304669)

28 05/21/2004 (304669) 29 06/25/2004 (304666)

30 06/25/2004 (355846)

31 07/19/2004 (355847)

32 07/23/2004 (304672) 33 08/11/2004 (355848)

34 08/13/2004 (250319)

35 09/07/2004 (355849)

36 10/20/2004 (355850)

37 11/12/2004 (355851)

38 12/20/2004 (383948) 39 01/21/2005 (343250)

39 01/21/2005 (343250)

40 01/21/2005 (383949) 41 02/09/2005 (383946)

42 03/14/2005 (383947)

43 03/29/2005 (373171)

44 04/20/2005 (580010)

45 05/12/2005 (580013)

46 06/10/2005 (580016)

47 07/24/2005 (580019)

48 08/12/2005 (580022)

49 08/26/2005 (402936)

50 09/22/2005 (580024)

51 10/20/2005 (580026)

52 11/18/2005 (580028)

53 12/19/2005 (580030)

54 01/23/2006 (580032)

55 02/10/2006 (580006)

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56 02/23/2006
                           (381428)
       57 03/21/2006
                           (580008)
       58 04/14/2006
                           (580011)
       59 05/09/2006
                           (457338)
       60 05/16/2006
                           (580014)
       61 05/17/2006
                             (465609)
       62 05/18/2006
                             (451345)
       63 05/30/2006
                             (465204)
                             (580017)
       64 06/20/2006
       65 07/24/2006
                             (580020)
       66 08/23/2006
                             (580023)
       67
          09/18/2006
                             (580025)
       68 10/23/2006
                             (580027)
                             (580029)
       69 11/21/2006
                             (580031)
       70 12/18/2006
       71 01/10/2007
                             (532191)
       72 01/16/2007
                             (580033)
       73 02/21/2007
                             (580007)
       74 03/19/2007
                             (580009)
       75 04/16/2007
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       76 05/14/2007
                             (580018)
       77 06/26/2007
                             (580021)
       78 07/18/2007
       79 08/21/2007
                             (572032)
                             (567030)
       80 08/31/2007
       81 09/12/2007
                             (565966)
Written notices of violations (NOV). (CCEDS Inv. Track. No.)
         Date
                09/30/2002
                                 (180141)
                                                                              Classification
                                                                                               Moderate
         Self Report?
                         YES
                             30 TAC Chapter 305, SubChapter F 305.125(1)
         Citation:
                             TWC Chapter 26 26.121(a)[G]
                             Failure to meet the limit for one or more permit parameter
         Description:
                05/01/2003
                                  (33349)
         Date
                                                                              Classification
                                                                                               Moderate
         Self Report?
                             30 TAC Chapter 116, SubChapter B 116.115(c)
         Citation:
                             PERMIT 1157B
         Rqmt Prov:
                             Failure to maintain vanadium pentoxide emissions below permit allowable.
         Description:
                06/30/2004
                                  (355847)
         Date
                                                                              Classification
                                                                                               Moderate
                         YES
         Self Report?
                             30 TAC Chapter 305, SubChapter F 305.125(1)
         Citation:
                             TWC Chapter 26 26.121(a)[G]
         Description:
                             Failure to meet the limit for one or more permit parameter
                11/30/2004
                                  (383948)
         Date
                                                                                               Moderate
                                                                               Classification
                         YES
         Self Report?
                             30 TAC Chapter 305, SubChapter F 305.125(1)
         Citation:
                             TWC Chapter 26 26.121(a)[G]
                             Failure to meet the limit for one or more permit parameter
         Description:
                01/21/2005
                                  (343250)
         Date
                                                                               Classification
                                                                                               Moderate
          Self Report?
                             30 TAC Chapter 305, SubChapter F 305.125(1)
          Citation:
                             30 TAC Chapter 335, SubChapter A 335.6(c)[G]
                             Failure to maintain an up-to-date Notice of Registration.
          Description:
                                                                                               Minor
                                                                               Classification
          Self Report?
                         NO
                             40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)
          Citation:
                             PERMIT V.B.1.
          Rgmt Prov:
                             Failure to store authorized waste in Container Storage Area NOR 012 (Permit
          Description:
                             Unit 003).
                                  (383946)
          Date 01/31/2005
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Classification

Moderate

E.

Description: Failure to meet the limit for one or more permit parameter Date 07/31/2005 (580022)

TWC Chapter 26 26.121(a)[G]

30 TAC Chapter 305, SubChapter F 305.125(1)

Self Report?

Citation:

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2005 (580028)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]

Failure to meet the limit for one or more permit parameter Description:

Date 11/30/2005 (580030)

Classification Self Report? Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

02/23/2006 (381428)Date

Classification Moderate Self Report? NO

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 335, SubChapter A 335.6(c)[G]

Failure to maintain an up-to-date Notice of Registration. Description:

Self Report? NO Classification Minor

40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a) Citation:

Rgmt Prov: PERMIT V.B.1.

Description: Failure to store authorized waste in Container Storage Area NOR 012 (Permit

Unit 003).

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 335, SubChapter A 335.5[G]

Rgmt Prov: PERMIT II.C.1.h.

Description: Failure to deed record the burial of approximately 4 million cubic feet of

alumina concentrate in a surface impoundment known as Pond 4 (NOR 004) in

Self Report? NO Classification Moderate

30 TAC Chapter 305, SubChapter F 305.125(1) Citation:

30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Rgmt Prov: PERMIT II.C.1.h.

Description: Failure to report the generation of Process Wastewater and Rinse Water from

Cleaning Equipment Used to Handle K171/K172 Wastes on 2003, 2004, and

2005 Annual Waste Summaries.

Self Report? NO Classification Moderate

30 TAC Chapter 335, SubChapter R 335.504[G] Citation:

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]

Description: Failure to make complete hazardous waste determinations for Process

> Wastewater (0038119H). Rinse Water (0030101H), and the waste stream comprised of broken concrete, gravel, and associated soil generated at the

> > Alter Carlemanner of Contract

Freeport facility and deposited on the Pond 4 property.

05/23/2006 Date (462884)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 335, SubChapter A 335.4(1)

Failure to prevent the imminent threat of discharge of industrial solid waste Description:

from Pond 3 (NOR 003).

Date 05/30/2006 (465204)

Classification Self Report? NO Moderate

30 TAC Chapter 305, SubChapter F 305,125(1) Citation:

30 TAC Chapter 335, SubChapter A 335.6(c)[G]

Description: Failure to maintain an up-to-date Notice of Registration.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 335, SubChapter A 335.5[G]

Rgmt Prov: PERMIT II.C.1.h. Jan 197 Mill

Description: Failure to deed record the burial of approximately 4 million cubic feet of

alumina concentrate in a surface impoundment known as Pond 4 (NOR 004) in

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Rqmt Prov: PERMIT II.C.1.h. Failure to report the generation of Process Wastewater and Rinse Water from Description:

Cleaning Equipment Used to Handle K171/K172 Wastes on 2003, 2004, and

2005 Annual Waste Summaries.

Self Report?

NO

Classification

Moderate

Citation:

Description:

30 TAC Chapter 335, SubChapter R 335.504[G]

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]

Failure to make complete hazardous waste determinations for Process Wastewater (0038119H), Rinse Water (0030101H), and the waste stream

comprised of broken concrete, gravel, and associated soil generated at the

Freeport facility and deposited on the Pond 4 property.

Self Report? NO Classification

Moderate

Citation:

2C TWC Chapter 20, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 335, SubChapter A 335.4(1)

Description:

Failure to prevent a release of contaminants to groundwater from Pond 4

impoundment NOR 004).

08/31/2006 Date

(580025)

Self Report?

Classification

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description:

Failure to meet the limit for one or more permit parameter

Date 11/30/2006 (580031)

YES Self Report?

Classification

Moderate

Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description:

Failure to meet the limit for one or more permit parameter

02/28/2007 (580009)Date

Self Report? YES Classification

Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description:

Failure to meet the limit for one or more permit parameter

08/21/2007 (572032)Date

Self Report?

Classification

Classification

Moderate

Moderate

Citation:

30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov:

OP FOP O-01377 SC 8 PA NSR 1157C SC 5

Description:

Failed to maintain the pH of scrubber 35-01 (EPN 007) below 8.0 as required

by NSR Permit 1157C (FOP O-01337; NSR 1157C).

Self Report?

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rgmt Prov:

Citation:

OP FOP O-01337 SC 8

PA NSR 19793 SC 6

Description:

Failed to maintain pH on scrubber 68-03 above 8.0 as required by NSR 19793

(FOP O-01337; NSR 19793).

Self Report?

NO

Classification

Minor

Citation:

30 TAC Chapter 122, SubChapter B 122.165(a)(7)

5C THC Chapter 382, SubChapter D 382.085(b)

Description:

Failed to certify deviation report with Form OP-CRO1 (FOP O-01337).

F. Environmental audits.

G. Type of environmental management systems (EMSs).

N/A

Voluntary on-site compliance assessment dates. Η.

Participation in a voluntary pollution reduction program. 1.

N/A

Early compliance. J.

N/A

Sites Outside of Texas

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
GULF CHEMICAL &	§	
METALLURGICAL CORPORATION	§	
RN100210129	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1520-AIR-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gulf Chemical & Metallurgical Corporation ("Gulf Chemical") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Gulf Chemical appear before the Commission and together stipulate that:

- 1. Gulf Chemical owns and operates a secondary nonferrous metals smelting and refining plant at 302 Midway Road in Freeport, Brazoria County, Texas (the "Plant").
- 2. The Plant consists of one or more sources as defined in Tex. Health & Safety Code § 382.003(12).
- 3. The Commission and Gulf Chemical agree that the Commission has jurisdiction to enter this Agreed Order, and that Gulf Chemical is subject to the Commission's jurisdiction.
- 4. Gulf Chemical received notice of the violations alleged in Section II ("Allegations") on or about September 16, 2007.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Gulf Chemical of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Thirty-One Thousand Fifty Dollars (\$31,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Gulf Chemical has paid Twelve Thousand Four Hundred Twenty Dollars (\$12,420) of the

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administrative penalty and Six Thousand Two Hundred Ten Dollars (\$6,210) is deferred contingent upon Gulf Chemical's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Gulf Chemical fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Gulf Chemical to pay all or part of the deferred penalty. Twelve Thousand Four Hundred Twenty Dollars (\$12,420) shall be conditionally offset by Gulf Chemical's completion of a Supplemental Environmental Project ("SEP").

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Gulf Chemical have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Gulf Chemical has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Gulf Chemical is alleged to have:

- 1. Failed to comply with the allowable emission limit of 0.32 pounds per hour ("lbs/hr") for volatile organic compounds ("VOCs"), in violation of 30 Tex. ADMIN. CODE §116.115(c), NSR Permit No. 19793 Special Condition No. 1, and Tex. Health & Safety Code § 382.085(b), as documented during a record review conducted on August 10, 2007. Specifically, during the stack testing on February 22-23, 2007 VOC emissions from the Electric Arc Furnace Scrubber Stack emission point number ("EPN") 009 were 1.079 lbs/hr.
- 2. Failed to comply with the allowable emission limit of 0.51 lbs/hr for particulate matter ("PM"), in violation of 30 Tex. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code § 382.085(b), as documented during a record review conducted on August 10, 2007. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace East Scrubber Stack (EPN 012) were 0.92 lbs/hr.
- 3. Failed to comply with the allowable emission limit of 0.51 lbs/hr for PM, in violation of 30 TEX. ADMIN. CODE §116.615(2), Standard Permit No. 36867, General Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 10,

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Gulf Chemical & Metallurgical Corporation DOCKET NO. 2007-1520-AIR-E Page 3

2007. Specifically, during the stack testing on February 21, 2007, PM emissions from the Electric Arc Furnace West Scrubber Stack (EPN 013) were 1.38 lbs/hr.

- 4. Failed to demonstrate removal efficiency of the Electric Arc Furnace East Scrubber Stack (EPN 012), in violation of 30 Tex. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code § 382.085(b), as documented during a record review conducted on August 10, 2007.
- 5. Failed to demonstrate removal efficiency of the Electric Arc Furnace West Scrubber Stack (EPN 013), in violation of 30 Tex. ADMIN. CODE §116.615(6), Standard Permit No. 36867, General Conditions, and Tex. Health & Safety Code § 382.085(b), as documented during a record review conducted on August 10, 2007.

III. DENIALS

Gulf Chemical generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Gulf Chemical pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Gulf Chemical's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gulf Chemical & Metallurgical Corporation, Docket No. 2007-1520-AIR-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. Gulf Chemical shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Four Hundred Twenty Dollars (\$12,420) of the assessed administrative penalty shall be offset with the condition that Gulf Chemical implement the SEP defined in Attachment A, incorporated herein by reference. Gulf Chemical's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
- 3. It is further ordered that Gulf Chemical shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, begin complying with the allowable emission limits of NSR Permit No. 19793 and Standard Permit No. 36867;

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- b. Within 30 days after the effective date of this Agreed Order, determine the removal efficiency of the Electric Arc Furnace East and West Scrubber Stacks by utilizing the operational data to calculate input to the scrubber; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below and include detailed supporting documentation to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager Houston Regional Office Texas Commission on Environmental Quality 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

- 4. The provisions of this Agreed Order shall apply to and be binding upon Gulf Chemical. Gulf Chemical is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
- 5. If Gulf Chemical fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Gulf Chemical's failure to comply is not a violation of this Agreed Order. Gulf Chemical shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Gulf Chemical shall notify the Executive Director within seven days after Gulf Chemical becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and

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- 7. This Agreed Order, issued by the Commission, shall not be admissible against Gulf Chemical in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Gulf Chemical, or three days after the date on which the Commission mails notice of the Order to Gulf Chemical, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	3/21/2008 Date
I, the undersigned, have read and understand the attached Agreed Order on behalf of the entity indicate and conditions specified therein. I further acknowled penalty amount, is materially relying on such representations.	ed below my signature, and I do agree to the terms edge that the TCEQ, in accepting payment for the
 I also understand that failure to comply with the Order timely pay the penalty amount, may result in: A negative impact on compliance history; Greater scrutiny of any permit applications subtened and the complex of this case to the Attorney General penalties, and/or attorney fees, or to a collection. Increased penalties in any future enforcement and the Attorney General's Complex of the Attorney General's Com	bmitted; 's Office for contempt, injunctive relief, additional on agency; actions; Office of any future enforcement actions; and w.
Denon N. Claus) Signature	12-26-07 Date
ZENON R. LLANOS Name (Printed or typed) Authorized Representative of Gulf Chemical & Metallurgical Corporation	V. P. DESEARCH. Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A Docket Number: 2007-1520-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Gulf Chemical & Metallurgical Corporation

Payable Penalty Amount: Twenty-Four Thousand Eight Hundred Forty Dollars (\$24,840)

SEP Amount: Twelve Thousand Four Hundred Twenty Dollars (\$12,420)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles

Program

Location of SEP: Brazoria County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Brazoria County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

Gulf Chemical & Metallurgical Corporation Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council Houston-Galveston AERCO P.O. Box 22777 Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division Attention: SEP Coordinator, MC 219 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality Financial Administration Division, Revenues Attention: Cashier, MC 214 P.O. Box 13088 Austin, Texas 78711-3088

Gulf Chemical & Metallurgical Corporation Agreed Order – Attachment A

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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